

REMARKS

Claims 1-16 are pending in the application and have been examined. Claims 1-16 stand rejected. Applicant respectfully requests reconsideration and allowance of Claims 1-16 in view of the following remarks.

The Rejection of Claims 1-6 and 10-16 Under 35 U.S.C. § 103(a) as Being Unpatentable over Radwan et al. (*New Forests* 3: 21-30 (1989)) in View of Saul et al. (*Forest Research Note* No. 33 (1982))

Claims 1-6 and 10-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Radwan et al. (*New Forests* 3: 21-30 (1989)) in view of Saul et al. (*Forest Research Note* No. 33 (1982)). The Examiner has taken the position that Radwan et al. discloses a method for promoting growth of shoots comprising applying fertilizer solution ("intermittent overhead mist of 2nd para of page 24) that comprises less than about 0.01% (w/v) nitrogen. The Examiner has previously acknowledged that Radwan et al. does not disclose the use of a log, and cites Saul et al. as disclosing the use of a log as a source of propagation. The Examiner then concludes that it would have been obvious to one of ordinary skill at the time of the invention to modify the method of Radwan et al. by using a log as disclosed by Saul et al. to have a practical way of propagating cuttings of alder. Applicant respectfully disagrees with the Examiner's conclusions.

With regard to the Radwan et al. reference, as noted by the Examiner, applicant previously pointed out that Radwan et al. teaches away from the present invention because the reference discloses application of a fertilizer solution containing greater than 0.01% nitrogen to produce shoots from living trees. Moreover, as previously pointed out, the "overhead mist" as described in Radwan et al. was applied to aid the development of roots on shoots that were cut off the living trees.

In response to applicant's arguments in connection with the Radwan et al. reference, the Examiner now states "the section of Radwan et al. to which Applicant refers, top of page 23, has to do with the fertilizer that trees received. From these trees the logs were obtained. The logs were misted, as disclosed on the top of page 24 of Radwan et al. The mist did not contain fertilizer." (Final Office Action, mailed 2/6/06, page 5, 2nd paragraph, emphasis added).

As an initial matter, it is submitted that the Examiner has mischaracterized the teachings of Radwan et al. by stating that logs were obtained from living trees. Applicant notes that the Examiner has previously acknowledged that Radwan et al. does not disclose the use of an alder log (see Final Office Action, mailed 2/6/06, page 2, 2nd paragraph; and Non-final Office Action, mailed 9/9/05, page 2, 2nd paragraph). As applicant previously pointed out, Radwan et al. discloses methods for promoting growth of shoots from a living alder tree, by applying a 10-20-20 commercial fertilizer, and girdling or pruning the tree to stimulate production of vigorous shoots (see Radwan et al., top of page 23). Therefore, it is submitted that Radwan et al. teaches away from the invention by requiring the use of living trees, and by the application of fertilizer to living trees with greater than 0.01% nitrogen (2kg of a 10-20-20 commercial fertilizer), to promote the growth of shoots.

Second, it appears the Examiner has improperly equated the rooting of cut shoots in Radwan et al. with promoting the growth of shoots from logs, as claimed. As stated by the Examiner, "[t]he logs were misted, as disclosed on the top of page 24 of Radwan et al. In contrast to the Examiner's statement that "the logs were misted," it is submitted that the cut shoots in Radwan et al. are not logs. As described in Radwan et al., once the new shoots grow on the living trees, the shoots are then cut and rooted by dipping the basal ends of the cuttings into a rooting solution, inserted into a rooting mixture, and placed in a chamber provided with intermittent overhead mist. (Radwan et al., top of page 24).

Third, as acknowledged by the Examiner, "the mist did not contain fertilizer." (Final Office Action, mailed 2/6/06, page 5, 2nd paragraph). In contrast, the method of the claimed invention is directed to a method for promoting the growth of shoots from a log, the method comprising the step of applying a fertilizer solution that comprises less than about 0.01% (w/v) nitrogen to a log.

The Examiner cites Saul et al. as teaching the use of a log ("cuttings" of Saul et al.) as a source for propagation. The Examiner then concludes that it would have been obvious to modify the method of Radwan et al. by using a log as disclosed by Saul et al. to have a practical way of propagating cuttings of alder with both shoots and roots. Saul et al. discloses obtaining cuttings from lignified or green stems, dipping them into rooting powder and planting them vertically into a rooting media to obtain roots. Saul et al. does not teach or suggest a method of promoting the growth of shoots from a log comprising the step of applying a fertilizer solution that comprises less than 0.01% (w/v) nitrogen, as required by Claim 1.

Therefore, it is submitted that the teachings of Radwan et al. and Saul et al., either alone or in combination, fail to teach, suggest, provide motivation to make, or otherwise render obvious the claimed method of the invention. Accordingly, applicant requests removal of this ground of rejection.

The Rejection of Claims 7-9 Under 35 U.S.C. § 103(a) as Being Unpatentable Over Radwan et al. in View of Saul et al. in Further View of Huss-Danell et al. (Physiol. Plant 49(2):113-116, (1980))

Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Radwan et al. in view of Saul et al. in further view of Huss-Danell et al. (*Physiol. Plant* 49(2):113-116, (1980)). Applicant respectfully disagrees.

For at least the reasons set forth above in response to the Examiner's rejection of Claims 1-6 and 10-16 under 35 U.S.C. § 103(a), it is submitted that neither the Radwan et al. reference nor the Saul et al. reference teaches or suggests a method for promoting the growth of shoots from a log comprising applying a fertilizer solution that comprises less than about 0.01% (w/v) nitrogen to the log. These deficiencies are not cured by the teachings of Huss-Danell et al. that disclose conditions for promoting rooting of cuttings. It is submitted that none of the cited references, either alone, or in any combination, teach or suggest a method for promoting the growth of shoots from alder logs as claimed.

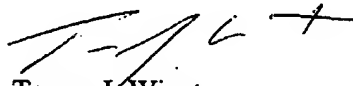
Consequently, it is submitted that the subject matter of Claims 7-9 is not obvious in view of the teachings of Radwan et al., Saul et al., and Huss-Danell et al. Accordingly, applicant respectfully requests removal of this ground of rejection.

CONCLUSION

In view of the foregoing remarks, applicant respectfully submits that Claims 1-16 are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned attorney at the telephone number set forth below.

Respectfully submitted,

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